



Minutes

Planning Decisions Committee

6.30pm, Wednesday 26 May 2021

MICROSOFT TEAMS

1. Appointment of Chair

Cr Crossland nominated Cr de Vietri as chair.

There being no other nominations, Cr de Vietri was elected chair.

Cr de Vietri assumed the chair.

2. Statement of recognition of Wurundjeri Woi-wurrung Land

“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”

3. Attendance and apologies

Attendance

Councillors

Cr Edward Crossland (substitute for Cr Landes)
Cr Stephen Jolly (substitute for Cr Bridgid O’Brien)
Cr Gabrielle de Vietri

Council officers

Amy Hodgen (Senior Co-ordinator Statutory Planning)
Gary O’Reilly (Senior Planner)
Cindi Johnston (Governance Officer)

Apology

Cr Herschel Landes
Cr Bridgid O’Brien

4. Declarations of conflict of interest

No declarations were made.

5. Confirmation of Minutes

RESOLUTION

Moved: Cr de Vietri **Seconded:** Cr Crossland

1. That the minutes of the meeting of the Planning Decisions Committee held on Wednesday 12 May 2021 be confirmed.

CARRIED

6 PLANNING DECISIONS COMMITTEE

Item		Page	Res. Page
6.1	PLN20/0403 - 362 Brunswick Street Fitzroy - Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works.	4	13
6.2	PLN19/0221.01 - 142 Johnston Street Fitzroy North	17	20

6.1 **PLN20/0403 - 362 Brunswick Street Fitzroy - Sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works.**

Reference D21/48913
Author Joe Byrne - Statutory Planner
Authoriser Senior Coordinator Statutory Planning

RECOMMENDATION

That having considered all the relevant planning policies, the Committee resolves to Issue a Notice of Decision to issue Planning Permit PLN20/0403 to allow for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, in accordance with the “decision plans” and subject to the following conditions:

1. Before the development or sale and consumption of liquor commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by OGT Solutions Pty Ltd, but modified to show:
 - (a) Details of any noise attenuation measures, including specifications of the proposed rear acoustic wall, in accordance with the recommendations of the endorsed Acoustic Report (condition 7);
 - (b) Location of bin storage within the title boundaries, and in accordance with the endorsed Waste Management Plan (condition 20);
 - (c) Exclude the first floor and staircase from the ‘red line’ area;
 - (d) Details of the canopy, including the material and the area of the extended canopy dashed on the ground floor plan; and
 - (e) Location of any external speakers within the rear courtyard.
2. The development and sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the sale of liquor for consumption on the premises may only occur between the hours of 10.00am – 9.00pm, seven days a week.
4. No more than 50 patrons are permitted on the land at any one time, in association with the licensed premises.
5. No more than 35 patrons are permitted in the outdoor courtyard at any one time.
6. Before the sale and consumption of liquor commences, the proposed acoustic fence must be constructed in accordance with the specifications recommended with the endorsed Acoustic Report (Condition 7).

7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 15 March 2021, but modified to address:
 - (a) Background music within the rear courtyard.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. The amenity of the area must not be detrimentally affected by the use, development or sale and consumption of liquor, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
10. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
12. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
14. The provision of music and entertainment on the land must be at a background noise level.
15. The provision of background music within the courtyard to cease at 9pm.
16. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
17. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.

18. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
19. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
20. Before the commencement of the sale and consumption of liquor, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must contain the following;
 - (a) private collection (unless Council collection is otherwise agreed by the Responsible Authority);
 - (b) anticipated waste generation of different waste streams, including separate glass recycling, waste collection process;
 - (c) location of waste storage, including bin wash down area; and
 - (d) details of collection vehicle/s and frequency of collection.
21. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
22. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
23. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
24. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (d) the sale and consumption of liquor is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

Submissions

Roy Sassonkin, Tahina (for the applicant)
David Murray
Jane Cameron
Jackie Gatt

MOTION

Moved: Cr de Vietri

Seconded: Cr Crossland

That having considered all the relevant planning policies, the Committee resolves to Issue a Notice of Decision to issue Planning Permit PLN20/0403 to allow for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, in accordance with the “decision plans” and subject to the following conditions:

1. Before the development or sale and consumption of liquor commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by OGT Solutions Pty Ltd, but modified to show:
 - (a) Details of any noise attenuation measures, including specifications of the proposed rear acoustic wall, in accordance with the recommendations of the endorsed Acoustic Report (condition 7);
 - (b) Location of bin storage within the title boundaries, and in accordance with the endorsed Waste Management Plan (condition 21);
 - (c) Exclude the first floor and staircase from the ‘red line’ area;
 - (d) Details of the canopy, including the material and the area of the extended canopy dashed on the ground floor plan; and
 - (e) Location of any external speakers within the rear courtyard.
2. The development and sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the sale of liquor for consumption on the premises may only occur between the hours of 10.00am – 9.00pm, seven days a week.
4. No more than 50 patrons are permitted on the land at any one time, in association with the licensed premises.
5. No more than 35 patrons are permitted in the outdoor courtyard at any one time.
6. Before the sale and consumption of liquor commences, the proposed acoustic fence must be constructed in accordance with the specifications recommended with the endorsed Acoustic Report (Condition 7).

7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 15 March 2021, but modified to address:
- (a) Background music within the rear courtyard.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. Prior to the commencement of the sale and consumption of liquor commences on site, a Noise Limiter must be installed on the land. The Noise Limiter must:
- (a) be set at a level specified by a qualified acoustic engineer;
(b) ensure the emission of noise from amplified music does not exceed the levels specified in the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2); and
(c) be maintained and operated at all times.
- to the satisfaction of the Responsible Authority.
10. The amenity of the area must not be detrimentally affected by the use, development or sale and consumption of liquor, including through:
- (a) the transport of materials, goods or commodities to or from land;
(b) the appearance of any buildings, works or materials;
(c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
(d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
11. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
(b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
(c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
(b) to the satisfaction of the Responsible Authority.
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. The provision of music and entertainment on the land must be at a background noise level.

16. The provision of background music within the courtyard to cease at 9pm.
17. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
18. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
19. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
20. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Before the commencement of the sale and consumption of liquor, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must contain the following;
 - (a) private collection (unless Council collection is otherwise agreed by the Responsible Authority);
 - (b) anticipated waste generation of different waste streams, including separate glass recycling, waste collection process;
 - (c) location of waste storage, including bin wash down area; and
 - (d) details of collection vehicle/s and frequency of collection.
22. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
23. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
24. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
25. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (d) the sale and consumption of liquor is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

AMENDED MOTION

Moved: Cr Jolly

That having considered all the relevant planning policies, the Committee resolves to Issue a Notice of Decision to issue Planning Permit PLN20/0403 to allow for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, in accordance with the "decision plans" and subject to the following conditions:

1. Before the development or sale and consumption of liquor commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by OGT Solutions Pty Ltd, but modified to show:
 - (a) Details of any noise attenuation measures, including specifications of the proposed rear acoustic wall, in accordance with the recommendations of the endorsed Acoustic Report (condition 7);
 - (b) Location of bin storage within the title boundaries, and in accordance with the endorsed Waste Management Plan (condition 21);
 - (c) Exclude the first floor and staircase from the 'red line' area;
 - (d) Details of the canopy, including the material and the area of the extended canopy dashed on the ground floor plan;
 - (e) Location of any external speakers within the rear courtyard; and
 - (f) The proposed rear acoustic wall to be a minimum of 3.2m in height.
2. The development and sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the sale of liquor for consumption on the premises may only occur between the hours of 10.00am – 9.00pm, seven days a week.
4. No more than 50 patrons are permitted on the land at any one time, in association with the licensed premises.
5. No more than 35 patrons are permitted in the outdoor courtyard at any one time.
6. Before the sale and consumption of liquor commences, the proposed acoustic fence must be constructed in accordance with the specifications recommended with the endorsed Acoustic Report (Condition 7).

7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 15 March 2021, but modified to address:
- (a) Background music within the rear courtyard.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. Prior to the commencement of the sale and consumption of liquor commences on site, a Noise Limiter must be installed on the land. The Noise Limiter must:
- (a) be set at a level specified by a qualified acoustic engineer;
 - (b) ensure the emission of noise from amplified music does not exceed the levels specified in the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2); and
 - (c) be maintained and operated at all times.
- to the satisfaction of the Responsible Authority.
10. The amenity of the area must not be detrimentally affected by the use, development or sale and consumption of liquor, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
11. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. The provision of music and entertainment on the land must be at a background noise level.

16. The provision of background music within the courtyard to cease at 9pm.
17. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
18. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
19. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
20. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Before the commencement of the sale and consumption of liquor, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must contain the following;
 - (a) private collection (unless Council collection is otherwise agreed by the Responsible Authority);
 - (b) anticipated waste generation of different waste streams, including separate glass recycling, waste collection process;
 - (c) location of waste storage, including bin wash down area; and
 - (d) details of collection vehicle/s and frequency of collection.
22. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
23. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
24. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
25. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (d) the sale and consumption of liquor is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

Motion lapsed for want of a seconder.

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr de Vietri

Seconded: Cr Crossland

That having considered all the relevant planning policies, the Committee resolves to Issue a Notice of Decision to issue Planning Permit PLN20/0403 to allow for the sale and consumption of liquor in association with a restaurant, demolition of a rear fence and buildings and works, in accordance with the "decision plans" and subject to the following conditions:

1. Before the development or sale and consumption of liquor commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by OGT Solutions Pty Ltd, but modified to show:
 - (a) Details of any noise attenuation measures, including specifications of the proposed rear acoustic wall, in accordance with the recommendations of the endorsed Acoustic Report (condition 7);
 - (b) Location of bin storage within the title boundaries, and in accordance with the endorsed Waste Management Plan (condition 21);
 - (c) Exclude the first floor and staircase from the 'red line' area;
 - (d) Details of the canopy, including the material and the area of the extended canopy dashed on the ground floor plan; and
 - (e) Location of any external speakers within the rear courtyard.
2. The development and sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the sale of liquor for consumption on the premises may only occur between the hours of 10.00am – 9.00pm, seven days a week.
4. No more than 50 patrons are permitted on the land at any one time, in association with the licensed premises.
5. No more than 35 patrons are permitted in the outdoor courtyard at any one time.
6. Before the sale and consumption of liquor commences, the proposed acoustic fence must be constructed in accordance with the specifications recommended with the endorsed Acoustic Report (Condition 7).

7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 15 March 2021, but modified to address:
 - (a) Background music within the rear courtyard.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. Prior to the commencement of the sale and consumption of liquor commences on site, a Noise Limiter must be installed on the land. The Noise Limiter must:
 - (a) be set at a level specified by a qualified acoustic engineer;
 - (b) ensure the emission of noise from amplified music does not exceed the levels specified in the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2); and
 - (c) be maintained and operated at all times.

to the satisfaction of the Responsible Authority.
10. The amenity of the area must not be detrimentally affected by the use, development or sale and consumption of liquor, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
11. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
13. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. The provision of music and entertainment on the land must be at a background noise level.

16. The provision of background music within the courtyard to cease at 9pm.
17. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
18. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
19. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
20. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Before the commencement of the sale and consumption of liquor, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must contain the following;
 - (a) private collection (unless Council collection is otherwise agreed by the Responsible Authority);
 - (b) anticipated waste generation of different waste streams, including separate glass recycling, waste collection process;
 - (c) location of waste storage, including bin wash down area; and
 - (d) details of collection vehicle/s and frequency of collection.
22. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
23. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
24. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
25. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the sale and consumption of liquor is not commenced within two years from the date of this permit; or
 - (d) the sale and consumption of liquor is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

CARRIED UNANIMOUSLY

Reference	D21/38226
Author	Alexandra Paraskevakis - Statutory Planner
Authoriser	Senior Coordinator Statutory Planning

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue an amended Planning Permit PLN19/00221 for use of the land as a restricted recreation facility (fitness studio) and construction and display of internally illuminated business identification signage, at 142 Johnston Street, Fitzroy North, subject to the following conditions

Planning Permit Preamble

Amended to:

Use of the land as a restricted recreation facility (fitness studio) and construction and display of internally illuminated and business identification signage.

1. **Before the use or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (dated 8 February 2021) but modified to show:**
 - (a) **Signs 2 and 3 to be shown as a minimum 75% transparent.**
2. The use and development as shown on the endorsed plans (including location and details of the signs) must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Within two (2) months of completion of the works, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
4. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm,;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Use

5. **No more than 39 patrons are permitted to participate in classes/fitness activities at any one time, without the prior written consent of the Responsible Authority.**

6. No more than 4 staff/instructors are permitted on the land at any one time, without the prior written consent of the Responsible Authority.
7. **Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:**
 - (a) **Monday to Friday: 5:30am - 8:00pm;**
 - (b) **Saturday: 6:30am - 7:00pm; and**
 - (c) **Sunday: 8:00am - 7:00pm.**
8. The amenity of the area must not be detrimentally affected by the use, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
9. **Before the use commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, but modified to include (or show, or address):**
 - (a) The hours of operation as shown in the Acoustic Report amended to reflect the operating hours as per condition 7.
 - (b) The acoustic floorplan annotation corrected to indicate treatments to be undertaken to the (internal) walls of the studio, rather than to the external (west) wall and windows.
10. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
11. **Before the use commences and following installation of all acoustic treatments in accordance with the Acoustic Report prepared by Bestec dated 9 February 2021, acoustic testing must be carried out by a suitably qualified acoustic engineer and a Post Construction Acoustic Report must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:**
 - (a) **Using a pink noise signal to ensure the noise level of the gym (including sound system) does not exceed those levels as recommended by the acoustic report (per condition 9);**
 - (b) **Ensuring the sound limiter is installed to continuously measure the sound pressure level in the cycle studio, and to cut the power to the system amplifier if it exceeds the values detailed in the acoustic report (per condition 9);**
 - (c) **Ensuring the sound limiter is locked.**

The Post Construction Acoustic Report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with the advertised acoustic report (per condition 9).

Where the Post Construction Acoustic Report finds the noise levels of the use do not satisfy the requirements outlined in the acoustic report (per condition 9), additional works as recommended to ensure compliance with the advertised acoustic report are to be undertaken prior to the use commencing, and an additional Post Construction Acoustic Report must be submitted to and approved by the Responsible Authority.

12. **Before the use commences, an amended Plan of Management to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Plan of Management will be endorsed and will form part of this permit. The amended Plan of Management must be generally in accordance with the Plan of Management received by Council 15 February 2021, but modified to include (or show, or address):**
 - (a) Classes to begin no earlier than 5:45am
 - (b) Correct hours of operation, as per Condition 7
 - (c) Waste management to be undertaken in accordance with the requirements of the endorsed waste management plan under PLN15/0632
13. The provisions, recommendations and requirements of the endorsed Plan of Management must be implemented and complied with to the satisfaction of the Responsible Authority.
14. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
15. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
16. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
17. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.

Advertising Signs

18. **The illuminated awning sign must only be illuminated during operating hours as per Condition 7.**
19. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
20. The **internally illuminated** sign must not include any flashing or intermittent light.
21. **Signs 2, 3 and 4 must not be illuminated by external or internal light.**

Expiry

22. The signage component of this permit expires 15 years from the date of the permit.
23. This permit will expire if:
 - (a) the signs are not displayed within two years of the date of this permit; or
 - (b) the use is not commenced within two years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Submissions

Matthew Austin (Applicant)
Shannon Curley
Danny Raiz

PLANNING DECISIONS COMMITTEE RESOLUTION

Moved: Cr Crossland

Seconded: Cr de Vietri

That the Recommendation be adopted.

CARRIED

The meeting closed at 7.53pm.

Confirmed at the meeting held on Wednesday 9 June 2021

Chair